

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION**

Case No. 5:11-cv-00680-D

JIMMY EARP AND PATRICIA EARP,

Plaintiffs,

v.

NOVARTIS PHARMACEUTICALS
CORPORATION,

Defendant.

ORDER

This matter is before the Court on the consent motion of Defendant Novartis Pharmaceuticals Corporation (“Novartis”) to seal Plaintiffs’ Proposed Sealed Exhibit (D.E. No. 115), pursuant to Local Rule 79.2 and Section T(1)(a) of the Electronic Case Filing Administrative Policies and Procedures Manual (“ECF Manual”). The proposed sealed exhibit is Exhibit 13 to Plaintiffs’ Omnibus Motion in Limine to Exclude Certain Evidence at Trial (D.E. No. 112), also filed at Docket Entry Number 113-4.

The public has been given advance notice of Novartis’s request to seal, and the motion to seal has been docketed well in advance of this Court’s decision on such motion. *See In re Knight Publishing Co.*, 743 F.2d. 231 (4th Cir. 1984). No objection has been made on the docket.

Because the document to be sealed supports a non-dispositive motion to exclude, it is not subject to a First Amendment right to access by the public. *See Rushford v. New Yorker Magazine, Inc.*, 846 F.2d. 249, 253 (4th Cir. 1988). Even if this Court were to conclude that the First Amendment is applicable to this motion to exclude, the Court finds the justification behind sealing this information to be compelling, particularly in light of no opposition from the public. The Court also believes that maintaining this document under seal is narrowly tailored to that

interest. Further, countervailing interests in sealing the document overcome the weaker common law presumption of access.

For good cause shown, and after reviewing the papers submitted, as well as the criteria set forth in Local Rule 79.2 and Section T(1)(a) of the ECF Manual, the Court hereby **GRANTS** Novartis's motion to seal and orders that the word "proposed" be removed from Docket Entry 115.

SO ORDERED. This 27 day of ~~March~~^{April} 2014.


JAMES C. DEVER III
Chief United States District Judge